

Appendix F: Compliance with Direction

Endangered Species Act of 1973, as amended 1978, 1979, 1982, and 1988 (16 United States Code (U.S.C.) 1531)

This Act provides direction to the Forest Service to establish objectives for habitat management and recovery through the Forest Plan for the conservation and protection of endangered and threatened species. The Endangered Species Act requires federal agencies to "...implement a program to conserve fish, wildlife, and plants...to insure their actions do not jeopardize the continued existence of any threatened or endangered species or result in the destruction or adverse modification of critical habitat." This project is consistent with the Forest Plan and is therefore consistent with this direction.

Information about threatened and endangered wildlife was obtained through the consultation with Forest Service, U.S. Fish and Wildlife Service, and the Wisconsin Department of Natural Resources. Through these discussions, the Forest Service determined which species required evaluation for the Fourmile project. A detailed analysis of effects on listed species was conducted and documented in the project's Biological Evaluation, in the project record in its entirety, and summarized in Section 3.7 of the EA.

Based on these determinations of effects and impacts to TES, the Forest Service concluded that Alternative 2 would not impair the long or short-term viability of these species on NFS lands and/or those non-FS lands within and outside the project area.

National Historic Preservation Act (16 U.S.C. 470)

The National Historic Preservation Act provides direction for Federal agencies to establish a program for preservation of historic properties. In compliance with this Act, a review was conducted to determine if heritage resource surveys had been conducted within the project area, and if sites had been recorded. As a result of this review, surveys were conducted in 2017 for areas not previously surveyed. Heritage resources (also referred to as cultural resources or historic properties) include archaeological sites, historic structures, historic buildings, sacred sites, and traditional cultural properties.

Public disclosure of these locations is prohibited by the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470hh) and public disclosure is further exempted from Freedom of Information Act (reference 5 U.S.C. 552 B (3), exemption 3). The results of these surveys were shared with the State Historic Preservation Office (SHPO) for concurrence. Potential impacts to sites eligible for the National Register of Historic Places (NRHP), as well as for those not yet evaluated, were considered in the heritage specialist report, placed in the project record, and summarized here.

Any newly found cultural resource sites would be given the protections measures summarized in the following paragraph, resulting in no impacts to these areas. Any eligible sites to the National Register of Historic Places would be protected from proposed management-related activities.

Protective measures vary depending on specific cultural resource site characteristics. Minimally, no project-related surface disturbing activity can occur within 20 meters of a cultural resource boundary. To ensure that recorded cultural resources are protected, those located within or near the project's area of potential effect would be monitored to ensure no project-

related damage has occurred. If measureable damage was found to have occurred during a project, consultation with SHPO would follow with evaluation of the cultural resource.

In accord with 36 CFR 800, Protection of Historic Properties, it is the policy of the Forest Service to protect those sites determined NRHP eligible, as well as those sites not yet formally evaluated. In the location of cultural resource, sites would be protected with buffers from potentially disturbing activities; therefore, none would be affected. If, however, previously unrecorded cultural resources were discovered during project activities, all surface disturbing activity within the vicinity of the discovery must immediately stop. A professional archaeologist would then examine the discovery, and consult SHPO to determine treatment alternatives (Forest Plan at 2-29).

Clean Water Act, as amended 1977

The Federal Water Pollution Control Act of 1972, as amended, is commonly referred to as the Clean Water Act. This was enacted to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. Section 319 for the 1977 amendments requires each state to develop and implement a program to control silviculture-related and other non-point sources of water pollution to the maximum extent practicable. Non-point sources of water pollution are controlled by the use of best management practices. Wisconsin developed Forestry Best Management Practices for Water Quality (BMPs) in 1995 (Wisconsin Department of Natural Resources, 2003). These practices, including those in the 2010 BMP manual, would be required for this project to prevent non-point sources of water pollution from forest management activities.

Under Section 404, the U.S. Army Corps of Engineers has been given responsibility to regulate the discharge of dredged and fill material into waters of the United States, including wetlands (33 CFR 323.3). Normal silvicultural activities, including harvesting for the production of forest products or upland soil and water conservation practices, are exempt from Section 404 permits (33 CFR 323.4). Construction and maintenance of forest roads for normal silviculture are also exempt provided BMPs are applied (33 CFR 323.4; Wisconsin's Forestry Best Management Practices for Water Quality). Forest Plan standards and guidelines meet, and in some cases exceed, BMPs.

Clean Air Act

There are no Class I airsheds within or adjacent to the project area (Forest Plan FEIS at 3-41), and the proposed prescribed burning would be designed to comply with the Clean Air Act. See Section 3.6 and 3.10 for a discussion of the proposed prescribed burning.

Wilderness Act

There are no Wilderness or Roadless areas within the project area. The Headwaters Wilderness Area is adjacent to the Fourmile eastern boundary (across Forest Road 2176) and the Blackjack Springs Wilderness Area is just beyond the northern project boundary, across Highway 70. The impacts to adjacent resources have been analyzed in Section 3.3, visuals section of this Environmental Assessment, concluding that minimal to no impacts would result from the project.

Regional Forester Sensitive Species Policy

The Forest Service Sensitive Species Policy (Forest Service Manual (FSM) 2670.32) calls on national forests to: assist states in achieving conservation goals for endemic species; complete biological evaluations (BE) of programs and activities; avoid and minimize impacts to species with viability concerns; analyze significance of adverse effects on populations or habitat; and

coordinate with states, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service. The Forest Service Manual (2670.15) defines sensitive species as those plant and animal species identified by a Regional Forester for which population viability is a concern, as evidenced by significant current or predicted downward trend in numbers, density, or habitat capability that would reduce a species' existing distribution. State-listed species are not addressed in this document or the BE unless they are also considered a Regional Forester Sensitive Species, in which case they are discussed in the BE with findings summarized in Sections 3.2 and 3.7 of this document, as appropriate.

Environmental Justice

Executive Order 12898 (1994) requires Federal agencies to identify any adverse human health and environmental effects of their actions that may disproportionately impact minority and low-income populations. Environmental justice means that, to the greatest extent practicable and permitted by law, populations are provided the opportunity to comment before decisions are made, are allowed to share in the benefits of, are not excluded from and are not affected in a disproportionately high and adverse manner by, government activities affecting human health or the environment.

If minority or low-income populations of the affected area or the county are greater than twice the state percentage for low-income or minority populations, an assessment must be conducted. According to data from the U.S. Census Bureau (July 1, 2017 estimates), approximately 12 percent of the State, 13 percent of Vilas County, 10 percent of Oneida County, and 16 percent of Forest County populations are considered low-income. Minorities comprise about 18 percent of the population in Wisconsin, 14 percent of Vilas County, 4 percent of Oneida County, and 19 percent of Forest County. In conclusion, the counties which are within the Fourmile project area have low-income percentages less than twice that of the state. Thus, Vilas, Oneida, and Forest Counties do not qualify as environmental justice communities and a formal assessment will not be conducted.

Initial scoping and consultation allowed all populations the opportunity to comment on and participate in the planning process for this project. The type of activities proposed under this project would not have disproportionately high and/or adverse effects on the human health or environment of minority and low-income populations, or any other populations. Human health and/or environmental effects as used in this Departmental Regulation include interrelated social and economic effects. Similar projects have shown that effects would be beneficial in terms of income to the county and local community stability. This type of action is common in this area, and we have many decades of experience with such actions. From this experience, disproportionate and adverse human health and safety risks are not likely. The interdisciplinary team found no unusual circumstances indicating effects would differ in this case. Environmental impacts would be small (outlined in Chapter 3) and any adverse impacts would be general and not apparent to any particular population.